

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**JAMES ROSENBLATT AND
JENNIFER ROSENBLATT,**

Plaintiffs,

v.

**NATIONWIDE GENERAL INSURANCE
COMPANY, WILLIAM H. WIMP,
CHUBB LLOYDS INSURANCE
OF TEXAS,**

Defendants.

Civil Case No.: 5:15-CV-00818

NOTICE OF REMOVAL

Defendant Chubb Lloyd's Insurance Company of Texas ("Chubb") respectfully petitions this Court for removal of the above-entitled action to the United States District Court for the Western District of Texas, San Antonio Division, from the 438th Judicial District Court, Bexar County, Texas, and for its Notice of Removal states:

I. **JURISDICTIONAL FACTS**

1. This action, entitled *James Rosenblatt and Jennifer Rosenblatt v. Nationwide General Insurance Company, William H. Wimp, Chubb Lloyd's Insurance Company of Texas*, and pending in the 438th Judicial District Court in Bexar County, Texas, Cause No. 2015-CI-03442, was commenced against Chubb via the filing of Plaintiffs' First Amended Petition, Request for Disclosure, and Jury Demand on July 14, 2015.

2. Plaintiffs' First Amended Petition was served on Chubb on August 18, 2015. This notice of removal is therefore timely filed pursuant to 28 U.S.C. §1446(b).

3. Plaintiffs sue Chubb for breach of contract, violations of the Texas Insurance Code and the Texas Deceptive Trade Practices Act (“DTPA”), negligent misrepresentation, negligence, and gross negligence relating to a claim for damage to Plaintiffs’ Chubb-insured dwelling and household possessions. Plaintiffs seek the following damages: economic and actual damages, consequential damages, exemplary damages, attorneys’ fees, and court costs. Plaintiffs seek damages related to a claim for loss to their home when Chubb insured it in 2012. Plaintiffs also seek damages against Nationwide General Insurance and William H. Wimp related to a claim for loss their home when Nationwide insured it in 2014. *See Index of Matters Filed*, attached as Exhibit A-1, Plaintiffs’ First Amended Petition, Request for Disclosure, and Jury Demand, Pages 11-12.

4. Plaintiffs are Texas citizens domiciled in Bexar County, Texas. *See id.* at 1. Chubb is an insurer authorized to do business in Texas. Chubb is an unincorporated association, and therefore its citizenship for purposes of determining diversity jurisdiction is determined solely by the citizenship of each of its members. *See Royal Ins. Co. v. Quinn-L Capital Corp.*, 3 F.3d 877 (5th Cir. 1993). Each and every member of Chubb is a citizen of either the State of New Jersey or the State of New York. Plaintiffs have inappropriately joined claims against Nationwide General Insurance and William H. Wimp which did not arise out of the same transaction, occurrence or series of transactions as required by Texas Rule of Civil Procedure 40. Thus, improperly joined claims cannot and should not defeat the complete diversity between Plaintiffs and Chubb. Therefore, removal is proper because there is complete diversity between the properly-named parties under 28 U.S.C. §1332.

5. Plaintiffs’ First Amended Petition claims damages of \$100,000-\$200,000. Thus, the “amount in controversy” requirement of 28 U.S.C. §1332(a) is satisfied.

6. Venue is proper in this Court pursuant to 28 U.S.C. §1441(a).

7. In accordance with 28 U.S.C. §1446(a), copies of all process, pleadings, and orders served upon Defendant in the state court action are attached to this notice. *See* Index of Matters Filed, attached as Exhibit A-2.

8. Pursuant to 28 U.S.C. §1446(d), written notice of the filing of this notice of removal will promptly be given to all parties and to the clerk of the 438th Judicial District Court of Bexar County, Texas.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant Chubb Lloyd's Insurance Company of Texas respectfully gives notice that this state court action has been removed and placed on this Court's docket for further proceedings. Chubb further requests any additional relief to which it may be justly entitled.

Respectfully submitted,

/s/ Jennifer Martin
JENNIFER G. MARTIN
State Bar No. 00794233
Email: jmartin@schellcooley.com
LISA M. WILSON
State Bar No. 24013767
Email: lwilson@schellcooley.com

SCHELL COOLEY LLP
15455 Dallas Parkway, Suite 550
Addison, Texas 75001
(214) 665-2000
(214) 754-0060 (Facsimile)

**ATTORNEYS FOR DEFENDANT CHUBB
LLOYD'S INSURANCE COMPANY OF
TEXAS**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing pleading was served on counsel of record via regular mail on this **17th** day of **September, 2015**:

Via Efile and First Class Mail

Daniel O. Kustoff, Esq.
Kustoff & Phipps LLP
4103 Parkdale Street
San Antonio, TX 78229

Via Efile and First Class Mail

Patrick M. Kemp, Esq.
Segal McCambridge Singer & Mahoney
100 Congress Avenue, Suite 800
Austin, TX 78701

/s/ Jennifer Martin
JENNIFER G. MARTIN

EXHIBIT A: INDEX OF MATTERS FILED

Plaintiff's First Amended Petition	Exhibit A-1
Court File	Exhibit A-2
State Court Docket Sheet	Exhibit A-3
All Counsel of Record	Exhibit A-4

EXHIBIT

A-1

EXHIBIT

A-2

EXHIBIT

A-3

EXHIBIT

A-4